

Se 245
1.977

S. C. STATE LIBRARY

MAR 30 1978

STATE DOCUMENTS

THIRD ANNUAL REPORT

of the

SOUTH CAROLINA

SECOND INJURY FUND

to the

GENERAL ASSEMBLY

July 1, 1976 through June 30, 1977

Printed Under the Direction of the
State Budget and Control Board

THIRD ANNUAL REPORT

of the

SOUTH CAROLINA

SECOND INJURY FUND

to the

GENERAL ASSEMBLY

July 1, 1976 through June 30, 1977

**Printed Under the Direction of the
State Budget and Control Board**

LETTER OF TRANSMITTAL

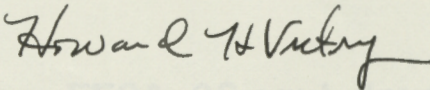
Columbia, S. C. July 1, 1977

*TO: His Excellency, the Governor of South Carolina, The
Honorable Members of the Senate and House of Representatives,
Columbia, South Carolina.*

Gentlemen:

I am pleased to report herein the activities of the South Carolina
Second Injury Fund for the fiscal year 1976-1977.

Respectfully submitted,

A handwritten signature in dark ink, reading "Howard H. Victry". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Howard H. Victry, Director

TABLE OF CONTENTS

SOUTH CAROLINA SECOND INJURY FUND

Howard H. Victry

Director

TABLE OF CONTENTS

	Page
Letter of Transmittal	ii
Organizational Chart	iii
Historical Development	5
Administration	5
Statutory Authority for the Agency	6
Financial Statement	9
Assessments	10
Claims Activity Against Fund.....	11
Lapsed Death Benefits Paid Into Fund.....	11
Hearings and Other Legal Proceedings	11
Total Dollars Paid By The Second Injury Fund To Insurance Companies or Self-Insureds	12
Individual Employers Benefiting From Reimbursements Paid To Insurance Companies or Self-Insured Employers By The Second Injury Fund	13
Claims Reported by Insurance Carriers and Self-Insureds	15

HISTORICAL DEVELOPMENTS:

Second Injury Funds, also commonly referred to as Subsequent Injury Funds or Special Disability Funds, are set up within the administrative framework of the Workmen's Compensation system to insure that an employer who hires a handicapped worker will not, in the event such worker suffers a subsequent injury on the job, be held liable for a greater disability than actually occurred while the worker was in his employment. Under such a system the employer pays only the benefits that are due for the second injury. This creates additional employment opportunities for disabled workers by removing an employer's fear of increased Workmen's Compensation costs. The system of apportionment varies from state to state, and a discussion of how the employer in South Carolina is reimbursed or how his liability is limited when the handicapped worker sustains a subsequent injury is found in a later section.

The Workmen's Compensation Law in South Carolina has contained provisions for Second Injury Fund benefits to insure employees since the law was enacted in 1936. Inadequate funding and the narrow scope of the law prevented effective utilization of the Fund by employers and employees. In 1972 the act was amended creating a broad-coverage Second Injury Fund and again amended in 1974 establishing the Fund as a separate state agency.

ADMINISTRATION

The Administration of the Second Injury Fund has changed both in structure and number of staff. The organization now consists of the Director, a Business Manager, two Claims Field Representatives, a Secretary, a Clerk III and a Clerk-Typist. This represents a staff increase of 2, from 4 to 6. All staff members are initially responsible to the Director, and their major areas of activity are claims, finance and employer-insurance carrier education.

The claims handling consists of receiving and processing claims against the Fund. This includes investigation, evaluation and developing a course of action as well as reaching a disposition in each case. All fatal cases reported to the South Carolina Industrial Commission are reviewed by the staff; and in the absence of dependents or next-of-kin in fatal Workmen's Compensation cases, the Second Injury Fund is beneficiary of the commuted death benefits normally paid to the dependents or next-of-kin.

The financial operation consists primarily of assessing all

carriers—insurance companies, self-insured employers and self-insured funds. This is accomplished by using the formula found in Section 72-602 code of laws of South Carolina. From a very fundamental standpoint this operation is responsible for maintaining the solvency of the Fund.

The educational functions are accomplished by:

1. The Director of the Fund at various Industrial Commission, employer and insurance carrier conferences by presenting films about the Fund and then conducting question and answer sessions.
2. The two Claims Field Representatives, while in the field attending hearings and conducting investigations, explaining to both employers and carriers the extent of coverage by the Fund.

This method of education appears to have been successful since our disbursements for FY 1977 exceeded those for FY 1976 and the projected disbursements for FY 1978 may double those of FY 1977.

STATUTORY AUTHORITY FOR THE AGENCY:

Section 72-602 of the South Carolina Workmen's Compensation Law creates the Fund and establishes the agency to administer the Fund in accordance with the provisions in Section 72-601 and 72-601.1.

The following outline lists the basic requirements for reimbursement:

1. The employee must have a prior permanent physical impairment of such seriousness as to constitute a hindrance or obstacle to obtaining employment or reemployment.
2. (a) The employer must establish by written records that he had knowledge of the permanent physical impairment at the time the employee was hired or retained, and these records must be filed with the Industrial Commission and the Second Injury Fund when claim is made for reimbursement; or
 - (b) The employer may qualify for reimbursement if he can show proof that he did not have prior knowledge of the employee's pre-existing physical impairment, because the existence of such condition was concealed by the employee or was unknown to the employee.
3. The employee must sustain a subsequent occupational injury:
 - (a) Which results in the employer's liability for disability that is

substantially greater than that which would have resulted from the new injury alone because of a combination with or aggravation of the prior impairment.

- (b) Which most probably would not have occurred "but for" the the presence of the prior impairment; or
- (c) Which results in the death of the employee, and the death would not have occurred except for the pre-existing impairment.

The Second Injury Fund principle requires that costs of the benefits payable be allocated between the employer or insurer on one hand, and the Second Injury Fund, on the other. It is most common for the employer or his insurer to pay the disability caused by the second injury and the Second Injury Fund to make up the difference between the employer's liability and whatever is payable as a whole. In revising the Second Injury Fund in South Carolina, the Legislature attempted to establish a system of reimbursement that would eliminate a controversy over proportionate sharing in particular cases and expedite the other determinations that need to be made in order that the employee or his beneficiaries receive payments. For this reason, the 78 week rule was established requiring the employer to pay the first 78 weeks of disability. Thereafter, this same employer is eligible to receive reimbursement from the Second Injury Fund for all remaining benefits.

Before the Fund can reimburse an employer, a handicapped worker must suffer a subsequent injury. This injury must combine with or aggravate the prior impairment, thus causing liability greater than that which would have occurred from the subsequent injury alone. This is the basic concept of Second Injury Fund Legislation; and without this increase in liability, the employer has not been placed at a disadvantage. Therefore, he would not be eligible for reimbursement.

Pursuant to Section 72-602, Rule 38 was adopted by the South Carolina Industrial Commission to implement assessments for fiscal year 1976-77 and subsequent years.

RULE NUMBER 38 READS AS FOLLOWS:

The South Carolina Second Injury Fund shall make inquiries annually of all carriers (which, by definition herein, shall include all insurance carriers, self-insurers, and the State Workmen's Compensation Fund), who transacted any business in this State

during the preceding calendar year, regarding the total indemnity and medical workmen's compensation benefits paid in this State during the preceding calendar year. Such inquiries will be made not later than the 15th day of February of each calendar year and must be answered and returned by each carrier within thirty (30) days from the date on the inquiry. The carrier's response must be in the form of an affidavit, sworn and subscribed to before a notary public by an officer or agent of the carrier. Any person who shall willfully make a false or fraudulent statement in response to the inquiry may be punished as provided by law.

Assessments for the fiscal year ending June 30th shall be sent to all carriers by no later than July 15th. Within thirty (30) days after the date of the assessment statement, all carriers will make payment to the Fund. Any questions or inquiries by carriers regarding the assessments shall be made to the Director of the Fund but shall not extend the time for payment. All disputes regarding the accuracy or validity of the assessment will be resolved by the Industrial Commission. If the Commission shall decide that a carrier has been improperly assessed, then the Fund shall promptly refund the amount of overpayment.

In the event that a carrier shall be delinquent in paying its assessment, the Fund shall petition the Industrial Commission to order payment, such Order to be served upon the carrier by registered mail. If the carrier does not comply with the Commission's Order within ten (10) days after service, then the Fund may seek further legal relief as provided by the laws of this State.

FINANCIAL STATEMENT

FISCAL 1976 - 77

Balance from previous year \$456,277.29

Receipts

Investments	\$ 34,040.90
No Next-of-Kin Benefits	77,025.47
Rents (equipment) and refunds	<u>104.84</u>
Total	\$111,171.21

Disbursements

Claims paid by the Fund	\$444,960.88
Administrative Costs	<u>115,136.98</u>
Total	\$560,097.86

Balance in the Fund @ 30 Jun 77 \$ 7,350.60

ASSESSMENTS

Section 72-602 subsection (d) of the Workmen's Compensation Laws of South Carolina as amended May, 1976, states that:

The funding of the Second Injury Fund on a continuing basis shall be by equitable assessments upon each carrier (which, by definition herein, shall include all insurance carriers, self-insurers and the State Workmen's Compensation Fund) in a manner as follows:

Each carrier shall, under regulations prescribed by the Industrial Commission, make payments to the Fund in an amount equal to that proportion of one hundred seventy-five percent of the total disbursement made from the Fund during the preceding fiscal year less the amount of the net assets in the Fund as of June thirtieth of the same fiscal year, which the total benefits paid by such carrier bore to the total benefits paid by all carriers during the calendar year which ended within the preceding fiscal year. An employer who has ceased to be a self-insurer shall continue to be liable for any assessments into the Fund on account of any benefits paid by him during such calendar year.

These assessments were sent to each carrier on 1 Jul 77 and were received at the Second Injury Fund by Aug 1977.

175% of the disbursements of \$560,098 is \$980,171
 Less remaining net assets @ 30 Jun 77 —6,713*
 Equals Second Injury Fund Assessment for 1976-77 \$973,458

This assessment (\$973,458) divided by the total Workmen's Compensation Benefits paid by all carriers (\$41,017,511) equals the assessment rate (.02373274) applied to each carrier.

* The actual remaining net asset figure was \$7,351. It was not used however because this increase was an interest figure received after 1 Jul 77.

CLAIMS ACTIVITY AGAINST FUND

Claims carried from 1975-76	266
Claims against Fund	326
Claims closed	194
Claims open at end of fiscal year 1975-76	398
Increase in claims against Fund	
1976-77 as compared to 1975-76	15%
Increase in claims open at end	
of 1977 compared to 1976	50%
Total Claims paid	69
Average disbursement per case paid	\$6,449.00
Reimbursements Fiscal Year 1976-77	\$444,960.88
Reimbursements Fiscal Year 1975-76	\$185,689.10
Percent increase	140%

LAPSED DEATH BENEFITS PAID INTO FUND

Fatal Cases Reviewed	145
1. Above cases fully investigated or litigated	6
2. Recovery	\$77,025.00

HEARINGS AND OTHER LEGAL PROCEEDINGS

Proceedings Attended	304
----------------------------	-----

The rate of increase in claims against the Fund has decreased as a result of better quality claims made by carriers and employers. Also, the time period for filing claims has been extended. Many claims previously reported never went over 78 weeks of liability. Employers and carriers must now file claims before the payment of 78 weeks of compensation rather than before 78 weeks following the injury.

**TOTAL DOLLARS PAID BY THE SECOND INJURY FUND TO
INSURANCE COMPANIES OR SELF-INSURED FOR
FISCAL YEAR 1976-77**

Aetna Casualty & Surety Co.	\$ 54,687.66
Allstate	30,943.37
American Motorist	7,728.65
American Mutual Insurance Company	14,999.21
Associated Indemnity	3,817.18
Continental Insurance Company	10,922.08
Employers Insurance of Wausau.....	8,106.65
Federal Insurance Co.	17,000.00
Federated Insurance Co.	9,052.02
Georgia Casualty & Surety Co.	6,423.45
Harleysville Mutual Ins. Co.	5,000.00
Home Insurance Co.	36,707.93
International Paper Company*	7,437.30
Liberty Mutual Ins. Co.	106,048.44
Lumberman's Mutual Ins. Co.	1,558.37
Maryland Casualty Inc. Co.	3,405.88
Northern Assurance Co.	2,215.00
Pilot Freight Carriers*.....	19,562.70
Randolph Hope Co.	6,219.40
Royal Indemnity Co.	6,579.15
Seaboard Fire & Marine	1,131.43
Southern Farm Bureau	6,940.60
Springs Mills*	3,940.94
Standard Fire Ins. Co.	252.00
State Fund.....	13,462.70
Transport Ins. Co.	4,837.96
Travelers Insurance Co.	10,045.60
U. S. Fidelity & Guaranty	36,929.52
Utica Mutual Ins. Co.	2,493.81
Zurich American Ins.	1,560.16
Miscellaneous	90.20

* Self-Insured Employer

**INDIVIDUAL EMPLOYERS BENEFITING FROM
REIMBURSEMENTS PAID TO INSURANCE COMPANIES OR
SELF-INSURED EMPLOYERS BY THE SECOND INJURY
FUND**

Allis Chalmers	\$ 1,235.26
American Enka	8,192.28
American Hoechst Fibers	1,544.77
Andrews Motors	17,000.00
Asplundh Tree Expert Co.	5,562.70
Ballenger Corp.	7,449.01
Benson Oil Co.	9,052.02
Bilo, Inc.	3,006.60
Bowsteel Corp.	4,382.55
Carolina Ceramics	819.42
Carolina National Bank	1,558.37
Colonial Oil Industries	1,131.43
Compton & Knowles Corp.	5,367.78
Cool Temp. Awning & Alum. Prod.	30,943.37
Daniel Const.	23,287.70
Derring Milliken	8,117.60
Diamond Hill Plywood Co.	5,992.61
E. M. Jones Chevrolet	1,662.31
Florentine Motor Inn	154.62
Gray Mortuary	3,405.08
Great Falls Builders Supply	6,940.60
Her Majesty, Inc.	713.42
Hyman Cadillac & Olds	4,557.09
International Paper*	7,437.30
J. B. Ivey	2,898.08
J. P. Stevens	20,018.64
Kendell Co.	19,379.05
La-Z-Boy East	13,641.82
Leroy Small-Vendor	6,423.45
Litton Industries	6,000.00
Lyman Printing & Finishing Co.	13,894.98
Owens Steel of S. C.	12,968.98
Pet, Inc.	26,430.37
Piedmont Airlines	1,239.55
Pilot Freight*	19,562.70
R. C. Motor Lines	4,837.96
Roadway Inn	1,560.15
Rock Hill Printing & Finishing Co.	17,445.17

Roses Store	2,215.00
Santee River Wool Combing Co.	538.42
S. C. Medical University	900.00
S. C. Wildlife	12,562.70
Shuron Continental Optical	31,728.23
Southern Wood	10,045.60
Spartan Mills	14,326.86
Springs Mills*	3,940.94
Star Paper Tube, Inc.	252.00
Swift & Co.	6,579.15
Texize Chemical Co.	2,493.81
Union Bleachery	2,768.03
United Parcel Service	5,691.30
Valchem Corp.	4,885.67
Wedron Silica Co.	3,817.18
Westview Fire Dept. Spartanburg	5,000.00
Wettereau, Inc.	9,204.45
W. W. Mobile Homes Transport	2,106.55
Miscellaneous	90.20
Total	\$444,960.88

* Self-Insured Employer

CLAIMS REPORTED BY:

A. Insurance Carriers	
Aetna Casualty and Surety Co.	21
Aetna Insurance Co.	2
Allstate	2
American Insurance Co.	2
American Motorist.	6
American Mutual Liability Ins. Co.	35
Boston Old Colony Ins. Co.	1
Casualty Reciprocal Exchange	2
Cincinnati Insurance Co.	1
Commercial Union Assurance Co.	3
Continental Casualty Co.	3
Continental Ins. Co.	18
Employer's Ins. of Wausau	5
Employer's Mutual Liability	2
Federal Ins. Co.	1
Federated Ins.	2
Fidelity & Casualty Co. of N. Y.	6
Fireman's Fund	5
General Accident Group	3
Georgia Casualty & Surety Co.	2
Harleysville Mutual Ins. Co.	1
Hartford Ins. Co.	2
Home Ins. Co.	15
Insurance Co. of North America	1
Kansas City Fire & Marine Co.	2
Liberty Mutual Ins. Co.	65
Lumberman's Mutual Ins. Co.	2
The Maryland	3
Merchant's Mutual Ins.	2
Michigan Mutual Ins. Co.	3
Nationwide Ins. Co.	1
Niagara Fire Ins. Co.	1
Seaboard Fire & Marine Co.	8
South Carolina Ins. Co.	1
State Farm Ins. Co.	2
State Workmen's Compensation Fund	7
Transport Ins. Co.	5
Travelers Ins. Co.	3
U. S. F. & G.	14
United States Fire Ins. Co.	6

B. Self-Insured Servicing Companies

Hewitt Coleman	2
Randolph Hope Co.	11

C. Self-Insured Employers

Dependable Sanitation Service	1
Duke Power Company	1
Gifford-Hill Co., Inc.	1
Greenwood Mills	3
International Paper	4
Korf Industries	2
S. C. E. & G.	2
Springs Mills	4
S. S. Kresge Co.	1
T. J. Ragsdale Co.	1
Westvaco	3
Winn-Dixie	2